

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1 and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**OPENING COMMENTS OF THE GREENLINING INSTITUTE
ON IMPLEMENTATION OF ASSEMBLY BILL 693**

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Introduction

In response to the California Public Utilities Commission's (CPUC or Commission) July 8, 2016 *Administrative Law Judge/s Ruling Seeking Proposals and Comments on Implementation of Assembly Bill 693*, The Greenlining Institute (Greenlining) respectfully submits the following comments.

AB 693 (Eggman, 2015) created the Multi-Family Affordable Housing Solar Roofs Program (MAHSR or Program), which will make available up to \$500,000,000 for the purpose of incentivizing solar installations on deed-restricted multi-family affordable housing. The MAHSR program is funded from the investment portion of the utilities' Cap and Trade auction proceeds.

Greenlining has participated in several collaborative discussions with many of the other parties to this proceeding, and has had the opportunity to review and contribute to the proposal being submitted today by the California Housing Partnership Coalition, the California Environmental Justice Alliance, National Housing Law Project, Brightline Defense Project, and the National Resource Defense Council (Joint Proposal). Greenlining generally supports the Joint Proposal. Greenlining also provides independent comment on certain issues as indicated below.

1) *Section 2870 requires that a property meet the statutory definition of “qualified multifamily affordable housing property” in order to be eligible to receive an incentive from the Program. How should the Program implement this requirement?*

Greenlining agrees with the Joint Proposal regarding implementation of the “qualified multifamily affordable housing property” eligibility requirement.

2) *Should the Program use the CalEnviroScreen tool developed by the California Environmental Protection Agency to determine the boundaries of “a disadvantaged community, as defined by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code”?*

Greenlining believes that CalEnviroScreen should be used to identify disadvantaged communities eligible to participate in the MAHSR program. Each utility should use whichever definition produces the greatest number of eligible buildings in disadvantaged communities – either the top 25% most impacted census tracts as defined statewide, in the utility’s service territory, or the top 25% most impacted census tracts in the utility’s service territory.

The Commission used this definition in its recent decisions on SCE’s and SDG&E’s electric vehicle charging infrastructure applications, because it allowed each utility the flexibility to use whichever definition resulted in the higher number of eligible customers.¹ Greenlining asserts that the same rationale applies here, and as such the Commission should apply the same definition.

Further, the Program should “grandfather” in eligibility for projects located in CalEnviroScreen disadvantaged communities. For example, if a project were approved for Program funds today, because it is located in a disadvantaged community according to the current version of CalEnviroScreen, that project should remain eligible for the Program even if the next version of CalEnviroScreen changes that location’s designation. This will create much-needed stability and reassurance for owners. If building owners worried that their project might become ineligible mid-way through build-out as a result of changes to the CalEnviroScreen tool, that could significantly deter them from participating. Allowing buildings to lock in their disadvantaged community status as of

¹ D.16-01-045, p.138, and D.16-01-023, p.41.

the time the project is approved will provide much more certainty for would-be participants.

- 3) *What specific types of documentation should an applicant be required to submit in order to demonstrate that it meets all relevant elements of the statutory definition:***
- a. *The Section 2852(a)(3)(A)(i) definition of “low-income residential housing;”***
 - b. *At least one of:***
 - i. *Location in a disadvantaged community, as statutorily defined; or***
 - ii. *At least 80 percent of households have incomes at or below 60 percent of Area Median Income (AMI).***

Greenlining agrees with the Joint Proposal with respect to the documentation that should be required to demonstrate that a property is eligible to participate in the MAHSR program.

- 4) *If some tenants of an otherwise qualified property are customers of community choice aggregators (CCAs), should this affect the eligibility of the property for the program?***

Greenlining believes that all customers should be able to participate in the MAHSR program. A property owner who has tenants served by both the IOU and a CCA might face a more complex application and implementation process, but should not be prohibited from participating.

- 5) *Should the available incentive funding be allocated as a certain percentage to properties that qualify by virtue of location in a disadvantaged community and to those that qualify by virtue of low-income tenant households?***

Greenlining agrees with the Joint Proposal that the incentive funding should be allocated to disadvantaged community properties and to low income properties according to the percentage of eligible buildings in each category (roughly 30% DACs and 70% low income). The funding should be allocated to each category annually, and should be allowed to accrue in each account in the event that a category is not fully subscribed in any given year. Greenlining also agrees with the Joint Proposal with respect to providing the Program Administrator with a certain degree of flexibility to manage deployment of funds between the two eligibility categories. In particular, the Program Administrator

must be prepared to be flexible and redouble its outreach and engagement efforts mid-implementation in undersubscribed communities.

6) Should the 300 megawatt (MW) capacity goal be allocated as a certain percentage to properties that qualify by virtue of location in a disadvantaged community and to those that qualify by virtue of low-income tenant households?

Greenlining does not believe that AB 693's 300 MW capacity goal should be allocated to the two categories of qualifying properties. The funding for AB 693 comes entirely from the annual Cap and Trade auction proceeds, and as 2016 has demonstrated, this makes the funding especially volatile. As such, Greenlining asserts that AB 693's 300 MW goal can be used as a planning benchmark, but should not be treated as a concrete program goal.

7) What type of incentive structure should the Commission adopt for the Program?

Greenlining agrees with the Joint Proposal with respect to the incentive structure the Commission should adopt for the Program.

8) Would a solar energy system paired with a storage device meet the definition in Section 2870(a)(4) of "solar energy system"?

Greenlining agrees with the Joint Proposal with respect to including storage in the definition of a "solar energy system." The significant savings potential for low income households and for property owners could be transformative, giving families more breathing room in their monthly budgets and giving owners a way to upgrade the property, provide more services for tenants, or reduce rents. Greenlining supports the provisions included in the Joint Proposal to ensure that only cost effective storage projects that deliver significant tenant benefits are funded through the MAHSR program.

9) Should the Commission adopt different incentive levels or structures for projects that include storage?

Greenlining agrees with the Joint Proposal regarding an appropriate incentive structure for projects that include storage.

10) Which, if any, features of the California Solar Initiative (CSI) and Multifamily Affordable Solar Homes (MASH) programs should be continued under the Program?

On this question Greenlining generally defers to the Joint Proposal, and emphasizes two issues that the Joint Proposal raised. First, the energy efficiency requirements for the MAHSR program must deliver meaningful savings for tenants as well as for the property owner, as discussed in greater detail in the Joint Proposal. Greenlining agrees with Joint Proposal on a minimum threshold of 10% pre-solar energy efficiency savings, and discusses energy efficiency in greater detail below, in response to Question 22.

Second, Greenlining supports extending the 18-month reservation window to a 36-month reservation window. The projects envisioned under the MAHSR program are comprehensive in scope, in order to deliver meaningful benefits. They require a significant amount of work on the property, and allowing more time for owners to complete the work provides much-needed flexibility to do so in coordination with other planned maintenance or upgrades, recapitalization, and ordinary tenant turnover. A longer reservation window could make participation in the MAHSR program far less disruptive for both tenants and owners, which will increase participation and ensure that the MAHSR program delivers its intended benefits.

11) How should the requirements regarding third-party owned systems set out in Section 2870(f)(3) be implemented?

Greenlining agrees with the Joint Proposal regarding third party ownership.

12) What types of local hiring requirements should be adopted? How should the local hiring requirements be designed to ensure that they “provide economic development benefits to disadvantaged communities”? Should these requirements include job training requirements similar to MASH?

In order to address these questions, the Commission must first define “local” for purposes of the MAHSR program. Greenlining proposes that the Commission defines a local worker as someone who is a resident of a disadvantaged community as defined by the CalEnviroScreen using a statewide application, or someone who resides in a household with income that is at or below 60% of the area median income.

AB 693's paramount purpose is to provide local economic development benefits while advancing California's renewable energy and climate policies by increasing solar penetration in disadvantaged communities. Job placement is a clear economic benefit resulting from deploying more solar into disadvantaged communities. As such, defining a "local" worker as one who resides in the same communities AB 693 targets for economic development aligns with the overarching purpose of the MAHSR program while still allowing sufficient flexibility to ensure that the local hire requirement does not become a barrier to MAHSR program participation. Additionally, in order to ensure that economic benefits to target communities result from the MAHSR program, the Commission must ensure that the jobs pay competitively.

Greenlining believes the MAHSR program should aspire to using a 100% local workforce, but we recognize that this is likely not possible. Greenlining therefore recommends that the Commission establish a reasonable minimum number of workers for each project, based on project size, who would need to be local in order for the project to satisfy the local hire requirement. Greenlining further recommends the Commission consider a modest increase in incentive levels for a project that can demonstrate it will use an entirely local workforce.

Greenlining asserts that the MAHSR program likely does not need a training component. Especially in the wake of the Great Recession and the Recovery Act, there are many effective solar and energy efficiency training programs run by nonprofit organizations, unions, community colleges, and Workforce Investment Boards across California today, graduating hundreds of qualified workers each year. Instead of adding more training opportunities, the MAHSR program should focus on ensuring that these local, trained workers have paying jobs by creating reliable job placement opportunities.

To this end, the Program Administrator should maintain lists of, and relationships with, solar and energy efficiency training programs in geographically diverse areas, with the goal of having good workforce training representation in all areas of the IOU service territories. When contractors are preparing bids for MAHSR program projects, the Program Administrator can help them connect with workforce training programs if they need help identifying and hiring local workers to satisfy the Program's minimum threshold. Additionally, local workers who are trained and certified but who are not

necessarily recent graduates of workforce development programs should be able to add themselves to the list maintained by the Program Administrator, so that they too can be considered by contractors looking to satisfy the local hire requirement.

Finally, Greenlining asserts that the MAHSR program should focus primarily on deploying a local workforce through this Program, but notes that local businesses in disadvantaged communities play a strong role in local economic development as well. As such, Greenlining recommends that the Commission consider a modest incentive adder for projects that will be built using contractors headquartered in disadvantaged communities as defined by the CalEnviroScreen's statewide application.

13) How should the Commission implement the requirement that the electricity generated by incentivized systems “be primarily used to offset electricity usage by low-income tenants”?

The first legislative finding in Section 1 of AB 693 is that “[i]t is necessary to provide assistance to low-income utility customers to make sure they can afford to pay their energy bills.”² As such, Greenlining asserts that 70% of the electricity generated by Program projects should be used to offset tenant usage. However, if this requirement will make it difficult to finance Program projects, Greenlining proposes in the alternative that projects be required to be at least 51% for tenant benefit, but the Program should provide higher incentives for projects that dedicate a larger portion of the electricity produced toward offsetting tenant load, up to and including projects that offset 100% of tenant load.

Greenlining agrees with the Joint Proposal on the proper handling of utility allowances, and emphasizes that the Commission should require building owners to guarantee tenant savings through an affidavit certifying that the owner will not increase rent in the event that the tenants' utility allowances are reduced after the property goes solar.

Greenlining further supports the Joint Proposal with respect to how to deliver tenant benefit in master metered buildings. Greenlining believes that these buildings should not be excluded, and does not expect that AB 693 intended to exclude master metered

² AB 693, Section 1(a).

buildings. Rather, Greenlining agrees that master metered building owners can deliver tenant benefit by reinvesting the savings from going solar into upgrades and services, especially those that improve tenants' health, safety and comfort.

14) How should the Commission address the requirements of Section 2870(g)(2)?

Greenlining agrees with Joint Proposal that VNEM is the best way to deliver bill credits to tenant customers. Greenlining also agrees with the Joint Proposal in its assertion that NBCs for participating tenants should be calculated based on net consumption, for this small and financially vulnerable segment of the population.

To the extent that California's standard tariff for rooftop solar generators may change after 2019,³ Greenlining believes that there is a strong public policy argument in favor of allowing low income renters and the building owners that guarantee them affordable housing to remain on VNEM throughout the life of the systems installed under the MAHSR program. Because all the buildings participating in the program will be restricted affordable housing, the Commission can be assured that the program benefits will continue to accrue to a low income family throughout the useful life of the project, and that the economic benefits remain in the communities AB 693 intended to impact.

Similarly, Greenlining submits that tenants in buildings served by AB 693 should be exempt from time of use (TOU) rates. While Greenlining does not dispute the value of TOU rates to the grid and to system-wide utility costs, shifting AB 693 tenants on VNEM rates to TOU rates could dramatically reduce, or even eliminate, the economic benefits this program was primarily intended to deliver. Even if the program is fully funded and fully subscribed, the number of tenant beneficiaries will be exceedingly small as compared to the total number of households in California IOU territories, and therefore the impact of these customers remaining on tiered rates will be similarly negligible. Allowing participating households to remain on tiered rates is a very small and quite reasonable price to pay to ensure that the low income households participating in the MAHSR program continue to receive its benefits.

³ D.16-01-044, p. 86.

15) Should the Program include a limit on the amount of incentive payments that can be paid to projects developed by any one third-party owner, supplier or installer of qualified solar energy systems?

While Greenlining does not necessarily support a hard-and-fast limit on any owner, supplier or installer's participation in the program, from a community economic development perspective it would be beneficial to ensure that a diverse array of companies can participate in the MAHSR program. A broader pool of owners and suppliers could also create a more competitive market within the program, which would reduce prices.

Greenlining recommends that the statewide Program Administrator maintain a list of solar contractors and third party owners, as well as a list of energy efficiency contractors, from across each of the participating local program administrators' service territories. These contractors should all be qualified to do the work required by the program, of course, and should also be able and willing to meet the Program's local hire requirement. The Program Administrator should strive for diversity on the list, including contractors located across the IOU service territories, as well as companies that are diverse in ownership (businesses owned by people of color, women, service disabled veterans, LGBT persons, etc.).⁴ The Program Administrator should make these lists available to building owners looking for contractors, who can then select the contractor that best meets their needs.

16) Should the Program include a limit on the number of MW for which projects developed by any one third-party owner, supplier or installer of qualified solar energy systems may be paid with Program incentives?

Greenlining has no additional comment on this question beyond that provided above in response to Question 15.

⁴ The Program Administrator can look to the Commission's General Order 156 and to the Clearinghouse that certifies businesses as diverse (with the exception of service disabled veteran owned businesses, which are certified through the state's Department of General Services) as guidance for determining whether a business' ownership is diverse.

17) What program administration structure should be adopted?

Greenlining believes that a third party statewide administrator is the best model for providing consistent, independent advice and service to building owners. The administrator should be selected via a competitive bidding process, and should be a non-profit organization or a public benefit corporation. The Program Administrator will need experience not only in solar, but also in energy efficiency and affordable housing, and must be familiar with good workforce pipeline models and practices.

Greenlining believes that a third party can provide more comprehensive, neutral advice to building owners than utilities can. While utilities know their programs very well, in Greenlining's experience they are not as well-versed regarding non-utility programs, including but not limited to the Department of Community Services and Development's (CSD) Low Income Weatherization Program (LIWP). Particularly with respect to energy efficiency, the Program Administrator must be able to help a building owner coordinate between all available funding sources, not just utility sources, in order to maximize funding and benefits. Greenlining believes that a statewide administrator will be best suited for this purpose. The Commission, the utilities, and the third party Program Administrator must coordinate well together to ensure that program administration does not become a barrier to participation. The third party Program Administrator must also be able to coordinate well with CSD and other agencies administering energy efficiency programs for which affordable multi-family residential buildings are eligible.

Greenlining believes that a statewide administrator model will provide more consistent service to customers across the state than a regional model in which each utility service territory has its own independent administrator. Additionally, the regional administrator model could be difficult to implement in the smaller Liberty and PacifiCorp territories. A statewide administrator would ensure that customers of these smaller utilities are as well served as customers of the larger IOUs.

However, the statewide Program Administrator would need to maintain a regional presence across the state, to best fulfil the role of trusted, "one-stop-shop" advisor. The Program Administrator representatives should be able to meet face-to-face with building owners to discuss options and answer questions. This regional presence would also allow

the Program Administrator to maintain more complete lists of local contractors and workforce training programs, as discussed above.

18) Should PG&E, SCE, SDG&E, Liberty, and PacifiCorp all be required to contribute GHG allowance proceeds to fund the Program? Should incentives from the Program be available to eligible projects in the service territories of all five utilities?

Greenlining believes that all five utilities should be required to contribute proceeds to fund the Program, and that incentives from the MAHSR program should be available to eligible projects in all five service territories.

19) How should annual program funds be allocated?

Greenlining agrees with the Joint Proposal regarding annual program fund allocation.

20) What is the appropriate regulatory accounting mechanism for the IOUs to use to set aside GHG allowance proceeds for the Program?

Greenlining has no opinion on the appropriate regulatory accounting mechanism for the IOUs to use for the MAHSR program.

21) The California Air Resources Board's Cap-and-Trade Regulation prevents utilities from publicly disclosing auction bidding information, including intent to participate in an auction, bidding strategy, and bid quantity information (17 CCR § 95914 (c)(1)). How should the Commission take this requirement into account in structuring the funding and budgeting for the Program?

Greenlining agrees with the Joint Proposal with respect to how to protect the confidentiality of the utilities' auction bidding information.

22) How should the program's energy efficiency requirements be determined? What documentation should applicants be required to provide of compliance with the requirements set in accordance with Section 2870(f)(7)?

Greenlining generally agrees with the Joint Proposal with respect to appropriate energy efficiency requirements for the MAHSR program. The energy efficiency component of the Program must be meaningful and deliver real benefits to both tenants and building owners, separate from the benefits to be gained from going solar. As noted

above, the Program Administrator will play a critical role in maximizing energy efficiency savings by helping building owners assemble the best package of incentives from both utility and non-utility programs. In order to achieve meaningful efficiency savings, Greenlining supports the Joint Proposal's recommendation that up to 10% of the MAHSR program's funds should be available to support deeper energy efficiency retrofits for participating properties. However, Greenlining emphasizes that all other available funding should be leveraged before the project can use the MAHSR program funds for efficiency work. This will help ensure that the MAHSR program dollars, which will be unreliable, can serve as many tenants and properties as possible.

Greenlining supports a limited degree of flexibility to tap into unspent Energy Savings Assistance Program (ESAP) funds to support *tenant unit efficiency upgrades* under the MAHSR program. Being a program that is specifically aimed at low income residential ratepayers, and not toward their landlords, ESAP funds should not be used to support common area upgrades.

Further, the MAHSR program should only have access to a portion of each utility's unspent ESAP funds. The ESAP is intended to benefit all low income customers, not just those living in multi-family affordable housing. The utilities have still not reached a significant portion of the ESAP-eligible population,⁵ and in other proceedings Greenlining has argued that these customers cannot be simply written off as "unwilling" before addressing the program's several barriers to participation. Similarly here, allowing the Program to tap into all of the unspent ESAP funds would effectively write off customers not yet served by ESAP, by re-allocating all of the funding to other customers. As such, Greenlining submits that the MAHSR program should be able to use a portion of each utility's unspent ESAP funds equal to the portion of the utility's ESAP-eligible customer base that lives in deed-restricted affordable multi-family housing.

⁵ Evergreen Economics, *Needs Assessment for the Energy Savings Assistance and the California Alternate Rates for Energy Programs*, Dec.16, 2013, at 3-23 to 3-25, available at <http://www.energydataweb.com/cpucFiles/pdaDocs/1016/ESA%20CARE%20LI%20Needs%20Assessment%20Final%20Report%20-%20Volume%201%20-%2012-16-13.pdf>

23) Should the Commission establish interim targets for the installation of capacity under the Program?

Greenlining agrees with the Joint Proposal that the MAHSR program should not be subject to interim targets for MAHSR program installations, given that this program's funding is especially unpredictable and volatile.

24) What types of data collection and reporting requirements should the Commission adopt for the Program?

Greenlining agrees with the Joint Proposal regarding data collection and reporting requirements.

25) What safety issues should be considered in the implementation of the Program?

Beyond the need to provide the MAHSR program participants with the same level of safety and consumer protections as are provided to customers of the Commission's other solar options, Greenlining is not aware of any additional safety issues to be considered in this proceeding.

26) Please identify and, if relevant, comment on any additional topics related to implementation of the Program that are not addressed in the questions above

Greenlining has no additional comments at this time.

Conclusion

The MAHSR program created by AB 693, if well implemented, could very well be market transformative, and could exemplify the wide variety of substantial benefits that can be gained by investing comprehensively in low income communities. With a local workforce installing robust energy efficiency measures, solar generation, and potentially even storage in low income housing, for the benefit of low income tenants, the potential for long-lasting, community-wide economic benefit is significant. Greenlining appreciates the opportunity to comment on the thoughtful questions the Commission has

posed, and urges the Commission to take the steps necessary to truly make the most of the MAHSR program.

Respectfully submitted,

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